IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
FRIDAY, THE TENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE SRI JUSTICE C.V.RAMULU
WRIT PETITION NO. 1342 of 1998

Between:
P.V.S.Lalithamba, W/o R.V.Hanmaiah,
Office Manager, A.P. State Council for Science & Technology, Gagan
Vihar,12 floor,Hyderabad..

..... PETITIONER

AND

1 A.P.State Council Of Science & Technology (APCOST), 12th floor, Gagan Vihar, Opp Gandhi Bhavan,Hyderabad. rep by its Member Secretary.
2 State of A.P., rep by Special Chief Secretary to Govt., E.F.S & T. Dept.,Secretariat Buildings, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction especially in the nature of a writ of mandamus declaring the 1st respondents proceedings No.3051/(Recommendations of the committee of APCOST Implementaion/97-16 DT.29.12.1997 and all proceedings relating to the issue of the same as being arbitrary, illegal, unconstitutional, null and void and without jurisdiction and consequently direct the respondents to continue the petitioner as Office Manager in the scale of Rs.3640-7580 together with all allowance etc., as revised from time to time.

Counsel for the Petitioner: MR.Y.VENKAT SASTRY

Counsel for the Respondent No.1: GP FOR SERVICES-I

Counsel for the Respondent No.2: Mr. A. RAMALINGESWARA RAO

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the proceedings No.3051/(Recommendations of the Committee on APCOST Implementation/97-16) dated 29.12.1997 of the first respondent and all subsequent proceedings relating to the issue of the same as arbitrary and illegal and consequently direct the respondents to continue the petitioner as Office Manager in the time scale of Rs.3640-7580 together with all allowances etc.

It seems, the petitioner was initially appointed as a Clerk-cum-Typist in the time scale of Rs.425-650 in the office of the first respondent on 31.10.1986. Her services were regularized in the said cadre with effect from 31.10.1986 i.e., from the date of her first appointment in the time scale of Rs.910-1625 by proceedings dated 06.08.1991 and her probation was also deemed to have been approved. Subsequently, she was promoted as Office Assistant-cum-Typist vide orders dated 20.07.1991 in the time scale of Rs.1230-2330 as per the provisions of Rule 16 of the State and Subordinate Services Rules with effect from 02.11.1990 with all service and other benefits. Her probation was also declared in the said cadre from 02.11.1991. Further she was placed as full additional charge of the post of Administrative Officer by an office order dated 27.02.1992. Subsequently, she was promoted as Office Manager by the proceedings dated 25.11.1993 in the newly created post in the time scale of Rs.1980-3500 (pre-revised) plus usual

allowances and she was placed on probation for a period of one year from the date of taking charge as Office Manager.

The petitioner asserts that she was promoted as Office Manager in view of her seniority, eligibility and qualifications strictly in accordance with the rules. Further her annual increments were also released in the said post of Office Manager with effect from 01.11.1994. While the matter stood thus, a show cause notice dated 18/20.01.1997 was issued to her by the respondents stating that the Government vide G.O.Ms.No.99 E.F.S & T (S&T) Department, dated 29.11.1995 constituted a committee to go into the irregularities committed in appointments, promotions and grant of higher scales to the employees of Andhra Pradesh State Council of Science and Technology (For short "APSCOST"), and the committee after thorough examination recommended certain measures to be taken and the Government agreed with the recommendations of the committee on APCOST and directed the members of the APCOST to revert all the employees, who were promoted irregularly, to their original posts, and therefore, it was proposed to revert the petitioner to the original post of Junior Assistant-cum-Typist from that of the Office Manager while she was put in the time scale of pay of Rs.910-1625 and her basic pay was fixed at Rs.2525/- as on 01.11.1996 and the annual grade increments were to be released separately and she was asked to submit her explanation within 15days.

In response to the said show cause notice, the petitioner had submitted her explanation stating that the show cause notice does not speak about the irregularity in her promotion as Office Assistant and there after as Office Manager and no rules were quoted in support of the two reversions proposed in her case nor at least the contents of the recommendations of the committee were made known to her, thus the opportunity to defend her case was usurped.

The first respondent filed a detailed counter denying the allegation made by the petitioner.

It is pertinent to note that the learned counsel for the petitioner Sri Y . Venkat Sastry raised an important question as to violation of principles of natural justice that the petitioner was not furnished with the report of the committee nor she was given any opportunity to appear before the committee. What was exactly proposed by the Government, or taken decision in respect of her post as Office Manager was also not known to the petitioner.

Learned counsel for the respondents submitted that a similar writ petition has come up before this Court and this Court upheld the order passed by the management in respect of some other employee under identical circumstances.

Be that as it may, this is a case of gross violation of principles of natural justice. Firstly, the petitioner was not given any notice to appear before the committee when the committee was enquiring into the affairs of the organization. Further the committee sent report to the Government and copy of such report was not furnished to the petitioner nor the decision taken by the Government was communicated to the petitioner except mentioning in the show cause notice that a committee was formulated as per the Government orders and thereafter on the recommendations of the committee the Government accepted the report and directed the organization to revert the employees to their respective posts held by them initially. At the earliest point of time while submitting explanation to the show cause notice, the petitioner categorically stated that she was not given an opportunity to represent and she was not furnished copy of the recommendations of the committee nor the decision made by the Government.

Under those circumstances, I am of the considered opinion that

unless and until the recommendations of the committee are made known to the petitioner, it is not fair on the part of the management to call for an explanation keeping the petitioner in dark. Further, learned counsel for the respondents contended that the petitioner could have asked for the report of the committee and also copy of the decision accepting the recommendations of the committee by the Government, but she could not do so, therefore she cannot blame the organization, and the principles of natural justice cannot be said to have been violated by the respondent No.1.

Such an argument cannot be countenanced. I am of the considered opinion that there is gross violation of principles of natural justice. The petitioner was promoted from the initial stage to two further stages and she was sought to be reverted by two stages in her status. The petitioner has legitimate right to know the recommendations of the committee and she has every right to know the decision taken by the Government before submitting an explanation to the show cause notice. Therefore the order impugned does not stand scrutiny of law and is liable to be set aside.

Accordingly, the impugned order is set aside and the respondents are directed to furnish the copies of the recommendations of the committee and also the decision taken by the Government thereon to the petitioner, before issuing fresh notice and then seek her explanation and take appropriate action according to law.

Accordingly, the Writ Petition is disposed of. No costs.

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10.09.2004

Nsr

To

1 The Member Secretary, A.P. State Council Of Science & Technology
(APCOST), 12th floor, Gagan Vihar, Opp. Gandhi Bhavan, Hyderabad.
2 The Special Chief Secretary to Government of A.P.,State of A.P.,
E.F.S & T. Dept., Secretariat Buildings, Hyderabad.

3. Two CCs to GP for Services-I, High Court of A.P., Hyderabad (OUT)

4. Two CD copies.